IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 8572 OF 2003

Appaji Ramchandra Jadhav
since deceased through his L.Rs...Petitioners

V/s

The Sangli Bank Ltd. and Ors.. Respondents

Shri R.V.More for Petitioners
Shri O.A.Das for Respondent no.1

CORAM:S.R.SATHE,J.

DATED:20th Feb. 2006

P.C.:-

1. Heard both the learned Advocates,.

2. The learned Advocate for the Respondents submits that Respondent has started execution proceedings for one and the same decree at two places i.e. Pandharpur and Sangli. According to him that is not permitted under Code of Civil Procedure.

3. The learned Advocate for the Respondent submits that they have started such proceedings because truck which is attached in the execution proceedings at Pandharpur may not

fetch the amount to satisfy the decreetal amount. He further submits that first they will proceed with execution proceedings at Pandharpur and if the decreetal amount is not recovered in the said proceedings would further proceed with the execution proceedings at Sangli. It is needless to say that it is the choice of D.H. to decide against whom he should proceed.

4. Here it is pertinent to note that in execution proceedings at Pandharpur, DH is proceedings mainly against defendants nos.1 and 2, while in execution at Sangli he is proceeding against JD nos. (4)(2) and 4(4). Under the circumstances, so long as the decreetal amount is not recovered, it cannot be said that the order passed by the Court was totally wrong. However, in view of the submission made by the learned Advocate for the Respondent DH to proceed first with execution proceedings filed at Pandharpur and if decreetal amount is not fetched out of the said proceedings then to take further steps in the execution proceedings filed at Sangli.

5. In view of the above, petition is disposed of in above terms.

(S.R.SATHE,J.)